

## REMARKS

Claims 1, 2, 4 – 9 and 30 – 39 are pending in the application.

Claims 1, 2, 4 – 9 and 30 – 39 stand rejected under 35 U.S.C. § 112, second paragraph. The claims have been amended to set forth a computer readable medium in combination with a computer program. Accordingly, it is believed that the claims are now definite.

Claims 1, 2, 4 – 9 and 30 – 39 stand rejected over Johnson, U.S. Patent No. 6,055,515 (Johnson). This rejection is respectfully traversed. When explaining this rejection, the Examiner set forth:

As noted in the previous office action, because a medium is a physical tangible entity, it is the Examiner’s factual determination that Applicant has now claimed a product. Product claims are patentable for what they are, not what they do. See *e.g. In re Benner*, 174 F.2d 938, 942, 82 USPQ 49, 53 (CCPA 1949) (“no provision has been made in the patent statutes for granting a patent upon an old product based solely upon discovery of a new use for such product”). Because data structures *by definition* can not “do” anything (*i.e.* it is a *computer program* is the item or thing that actually *performs* actions), Applicants claims are simply a medium and a data structure. Because virtually all computer programs when executed are on a medium, and those medium contain data structures, the claims are anticipated by a large number of documents. Johnson ‘515 is simply selected as being exemplary of these documents (Final Office Action 9.1.2006 ¶9).

The claims have been amended to specify “a computer readable medium in combination with a computer program”. The computer program includes a catalog header portion, a system identification portion and a system option record portion, as required by claims 1 and 30. Johnson does not disclose or suggest such a computer program, much less a computer program which includes the specific functionality of each of the catalog header record portion, system identification portion and the system option record portion as claimed by claims 1 and 30.

Claims 1, 2, 4 – 9 and 30 – 39 stand alternatively rejected over Riley, David D., Data Abstraction and Structure, An Introduction to Computer Science II (Riley) This rejection is respectfully traversed.

Riley generally discloses common data structures.

Applicant respectfully maintains that even if a “catalog record header portion” were inherent in the catalog of Johnson or were disclosed or suggested by Riley, Johnson and Riley, taken alone or in combination do not disclose or suggest a computer program which includes a catalog header portion, a system identification portion and a system option record portion, as required by claims 1 and 30, much less a computer program which includes the specific functionality of each of the catalog header record portion, system identification portion and the system option record portion as claimed by claims 1 and 30, much less a computer program which includes a system type element as specifically defined by the present application and claimed by claims 1 and 30.

More specifically, the present invention, as set forth by independent claim 1, relates to a computer program in combination with a computer readable media. The computer program provides a catalog from a manufacturer to a customer and is encoded to enable a customer to perform an automated order entry process. The computer program includes a catalog header record portion stored on the computer readable media which stores catalog header record data, a system identification portion stored on the computer readable media which stores system identification data and includes a system type element indicating whether a system is one of a bundled system and a custom system which allows the customer to determine whether the system is a bundled system or a custom system during the automated order entry process, and a system option record portion stored on the computer readable media which stores system option record data.

The present invention, as set forth by independent claim 30, relates to a computer program in combination with a computer readable media. The computer program provides a catalog from a manufacturer to a customer and is encoded to enable a customer to perform an automated order entry process. The computer program includes a catalog header record portion stored on the computer readable media which stores catalog header record data, where the catalog header data applies to an entire the catalog, a system identification portion stored on the computer readable media which stores system identification data, applies once for each system type and includes a system type indicator which indicates whether a system is one of a bundled system and a custom system and allows the customer to determine whether the system is a bundled system or a custom system during the automated order entry process, and a system

option record portion being stored on a the computer readable media which stores system option record data and includes a plurality of system option record entries where each of the plurality of system option record entries applies to a respective system option.

Johnson and Riley, taken alone or in combination, do not teach or suggest a computer program in combination with a computer readable media wherein the computer program provides a catalog from a manufacturer to a customer and is encoded to enable a customer to perform an automated order entry process, much less wherein the computer program includes a catalog header record portion stored on the computer readable media which stores catalog header record data, a system identification portion stored on a the computer readable media which stores system identification data and includes a system type element indicating whether a system is one of a bundled system and a custom system which allows the customer to determine whether the system is a bundled system or a custom system during the automated order entry process, and a system option record portion stored on a the computer readable media which stores system option record data, all as required by claim 1. Accordingly, claim 1 is allowable over Johnson and Riley. Claims 2, and 4 - 9 depend from claim 1 and are allowable for at least this reason.

Johnson and Riley, taken alone or in combination, do not teach or suggest a computer program in combination with a computer readable media wherein the computer program provides a catalog from a manufacturer to a customer and is encoded to enable a customer to perform an automated order entry process, much less wherein the computer program includes a catalog header record portion stored on the computer readable media which stores catalog header record data, where the catalog header data applies to an entire the catalog, a system identification portion stored on a the computer readable media which stores system identification data, applies once for each system type and includes a system type indicator which indicates whether a system is one of a bundled system and a custom system and allows the customer to determine whether the system is a bundled system or a custom system during the automated order entry process, and a system option record portion being stored on a the computer readable media which stores system option record data and includes a plurality of system option record entries where each of the plurality of system option record entries applies to a respective system option, all as required by claim 30. Accordingly, claim 30 is allowable over Johnson and Riley. Claims 31 - 39 depend from claim 30 and are allowable for at least this reason.

## **CONCLUSION**

In view of the amendments and remarks set forth herein, the application is believed to be in condition for allowance and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the examiner is requested to telephone the undersigned.

I hereby certify that this correspondence is being electronically submitted to the COMMISSIONER FOR PATENTS via EFS on January 2, 2007.

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Respectfully submitted,

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